

March 6, 2008

Christopher & Valerie Mercer
10 Steven Street
Tiverton, Rhode Island 02878

Re: Tiverton Zoning Board Relief; Map 6-6, Block/Plat 57, Card/Lot 10

Dear Mr & Ms. Mercer:

The following is the decision on your Petition heard by the Zoning Board of Review (the "Board") on March 5, 2008 for a request for a variance from Article V, Section 1 and Article VI, Section 3.b. of the Tiverton Zoning Ordinance (the "Zoning Ordinance") to legalize and existing above-ground pool and deck on property located at 10 Steven Street, Tiverton, Rhode Island, at Map 6-6, Block/Plat 57, Card/Lot 10 (the "Premises") with less than required front yard and side yard setbacks from the property lines than is allowed in an R40 district.

After the testimony was completed at the public hearing for which due notice was given and a record kept, and after having viewed the premises and the surrounding area, the Board, taking into consideration its knowledge and expertise and all of the testimony and evidence entered into the record at the public hearing, makes the following findings:

1. That the Premises contains approximately 9,583 square feet of land area, more or less, and is zoned R40 residential.
2. A residential dwelling with a deck and above-ground pool is located on the Premises, which deck and pool is located within the required side yard and front yard setbacks for the R40 district.
3. The petitioner testified that he and his wife had purchased the Premises some eight years ago and the deck and pool were in existence at that time. The petitioner further testified that he received a violation notice from the Building Official that the deck and pool were located with the side yard and front yard setback areas for the R40 district and had not received any relief to be so located. The petitioner is now seeking to legalize the deck and pool. The proposal requires a variance from Article V, Section 1 and Article VI, Section 3.b. of the Zoning Ordinance.
4. The petitioner testified that the existing street does not pass by the Premises and that he and his wife purchased an adjoining lot to reduce any impacts on neighboring property owners. The petitioner testified that the proposal would meet current neighborhood development conditions.
5. The petitioner also testified that the proposal would be in keeping with the development in the surrounding area, would not negatively impact any nearby property owners and was the least relief necessary.
6. No objections were raised to the proposal.
7. The Board concurred with the factual statements and opinions of the petitioner, whose information, analysis and conclusions were found credible and are made a part of the record. No objections were presented by any abutters.

Based on the foregoing and after deliberations on the application, the Board voted four in favor and one opposed to grant the application for the necessary variances, as follows:

- a. Special conditions and circumstances exist which are special and peculiar to the land or structure involved, and which are not applicable to other lands or structures in the same zoning district, and are not due to a physical or economic disability of the petitioners.
- b. Issuance of the requested relief will not be contrary to the public interest, and that, owing to special or peculiar site or structural conditions, literal enforcement of the provisions of this ordinance would result in an unnecessary hardship on the petitioners.
- c. The unnecessary hardship, which the petitioners seek to avoid, has not been imposed by any prior action of the petitioners and is not based purely for monetary gain or loss.
- d. The granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of the zoning ordinance or the comprehensive plan upon which the ordinance is based.
- e. Relief from the provisions of this ordinance is the least relief necessary to remove the unnecessary hardship.
- f. That nonconforming use of neighboring lands, structures or buildings in the same district, and permitted use of lands, structures or buildings in an adjacent district did not form the grounds for the application of this variance request.
- g. That the hardship that will be suffered by the petitioners of the subject property if the dimensional variance is not granted amounts to more than a mere inconvenience.

This petition is granted by the Board with the following stipulations and conditions:

- 1. That this decision must be recorded in the Land Evidence Records in the Town Clerk's Office before a building permit/certificate of occupancy is issued. (Please note that the appeal period (20 days) begins when said decision is recorded and posted with the Town Clerk's Office).
- 2. That the relief is limited to the plans and representations made by the petitioners to the Board. Changes to the approved plan may be made without approval of the Zoning Board of Review if needed to comply with either the building or fire codes.
- 3. That this grant shall be activated with a building permit/certificate of occupancy, within one (1) year, unless extended by the Board, or it shall become void.

Present this letter to the Building Inspector when applying for the necessary permits.

Very truly yours,

David Collins, Chairman
Tiverton Zoning Board of Review